

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 112

HOUSE BILL 2280

AN ACT

AMENDING SECTION 11-1134, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-405; AMENDING SECTION 42-15101, ARIZONA REVISED STATUTES; RELATING TO CONVEYANCES AND DEEDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 11-1134, Arizona Revised Statutes, is amended to
3 read:
4 11-1134. Exemptions
5 A. The affidavit and fee required by this article do not apply to the
6 following instruments:
7 1. A deed that represents the payment in full or forfeiture of a
8 recorded contract for the sale of real property.
9 2. A lease or easement on real property, regardless of the length of
10 the term.
11 3. A deed, patent or contract for the sale or transfer of real
12 property in which an agency or representative of the United States, this
13 state, a county, city or town of this state or any political subdivision of
14 this state is the named grantor, and authorized seller, or purchaser.
15 4. A quitclaim deed to quiet title as described in section 12-1103,
16 subsection B.
17 5. A conveyance of real property that is executed pursuant to a court
18 order.
19 6. A deed to an unpatented mining claim.
20 7. A deed of gift.
21 B. The affidavit and fee required by this article do not apply to a
22 transfer of title:
23 1. Solely in order to provide or release security for a debt or
24 obligation, including a trustee's deed pursuant to power of sale under a deed
25 of trust.
26 2. That confirms or corrects a deed that was previously recorded.
27 3. Between husband and wife, or parent and child, with only nominal
28 actual consideration for the transfer.
29 4. On a sale for delinquent taxes or assessments.
30 5. On partition.
31 6. Pursuant to a merger of corporations.
32 7. By a subsidiary corporation to its parent corporation for no
33 consideration or nominal consideration or in sole consideration for canceling
34 or surrendering the subsidiary's stock.
35 8. From a person to a trustee or from a trustee to a trust beneficiary
36 with only nominal actual consideration for the transfer.
37 9. To and from an intermediary for the purpose of creating a joint
38 tenancy estate or some other form of ownership.
39 10. From a husband and wife or one of them to both husband and wife to
40 create an estate in community property with right of survivorship.
41 11. From two or more persons to themselves to create an estate in joint
42 tenancy with right of survivorship.
43 12. PURSUANT TO A BENEFICIARY DEED WITH ONLY NOMINAL ACTUAL
44 CONSIDERATION FOR THE TRANSFER.

1 C. Any instrument that describes a transaction that is exempt under
2 this section shall note the exemption on the face of the instrument at the
3 time of recording, indicating the specific exemption that is claimed.

4 Sec. 2. Title 33, chapter 4, article 1, Arizona Revised Statutes, is
5 amended by adding section 33-405, to read:

6 33-405. Beneficiary deeds; recording; definition

7 A. A DEED THAT CONVEYS AN INTEREST IN REAL PROPERTY, INCLUDING ANY
8 DEBT SECURED BY A LIEN ON REAL PROPERTY, TO A GRANTEE DESIGNATED BY THE OWNER
9 AND THAT EXPRESSLY STATES THAT THE DEED IS NOT TO TAKE EFFECT UNTIL THE DEATH
10 OF THE OWNER TRANSFERS THE INTEREST TO THE DESIGNATED GRANTEE BENEFICIARY
11 EFFECTIVE ON THE DEATH OF THE OWNER. THE GRANTEE MAY BE A MULTIPLE GRANTEE
12 OR A SUCCESSOR GRANTEE, OR BOTH. A MULTIPLE GRANTEE MAY BE A JOINT TENANT
13 WITH RIGHT OF SURVIVORSHIP, A TENANT IN COMMON, A HOLDER OF COMMUNITY
14 PROPERTY OR COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP, OR ANY OTHER
15 TENANCY THAT IS OTHERWISE VALID UNDER THE LAWS OF THIS STATE. A GRANT TO A
16 SUCCESSOR GRANTEE SHALL STATE THE CONDITION ON WHICH THE INTEREST OF THE
17 SUCCESSOR GRANTEE WOULD VEST.

18 B. IF REAL PROPERTY IS OWNED AS JOINT TENANTS WITH THE RIGHT OF
19 SURVIVORSHIP OR AS COMMUNITY PROPERTY WITH THE RIGHT OF SURVIVORSHIP, A DEED
20 THAT CONVEYS AN INTEREST IN THE REAL PROPERTY TO A GRANTEE DESIGNATED BY ALL
21 THE THEN SURVIVING OWNERS AND THAT EXPRESSLY STATES THAT THE DEED IS NOT TO
22 TAKE EFFECT UNTIL THE DEATH OF THE LAST SURVIVING OWNER TRANSFERS THE
23 INTEREST TO THE DESIGNATED GRANTEE BENEFICIARY EFFECTIVE ON THE DEATH OF THE
24 LAST SURVIVING OWNER. IF A BENEFICIARY DEED IS EXECUTED BY ONLY ONE OR FEWER
25 THAN ALL OF THE OWNERS OF REAL PROPERTY OWNED AS JOINT TENANTS WITH RIGHT OF
26 SURVIVORSHIP OR COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP, THE
27 BENEFICIARY DEED IS VALID IF THE LAST SURVIVING OWNER IS ONE OF THE PERSONS
28 WHO EXECUTES THE BENEFICIARY DEED. IF THE LAST SURVIVING OWNER DID NOT
29 EXECUTE THE BENEFICIARY DEED, THE DEED IS INVALID.

30 C. A BENEFICIARY DEED IS VALID ONLY IF THE DEED IS EXECUTED AND
31 RECORDED AS PROVIDED BY LAW IN THE OFFICE OF THE COUNTY RECORDER OF THE
32 COUNTY IN WHICH THE PROPERTY IS LOCATED BEFORE THE DEATH OF THE OWNER OR THE
33 LAST SURVIVING OWNER. A BENEFICIARY DEED MAY BE USED TO TRANSFER AN INTEREST
34 IN REAL PROPERTY TO A TRUST ESTATE EVEN IF THE TRUST IS REVOCABLE.

35 D. A BENEFICIARY DEED MAY BE REVOKED AT ANY TIME BY THE OWNER OR, IF
36 THERE IS MORE THAN ONE OWNER, BY ANY OF THE OWNERS WHO EXECUTED THE
37 BENEFICIARY DEED. TO BE EFFECTIVE, THE REVOCATION MUST BE EXECUTED AND
38 RECORDED AS PROVIDED BY LAW IN THE OFFICE OF THE COUNTY RECORDER OF THE
39 COUNTY IN WHICH THE REAL PROPERTY IS LOCATED BEFORE THE DEATH OF THE OWNER
40 WHO EXECUTES THE REVOCATION. IF THE REVOCATION IS NOT EXECUTED BY ALL THE
41 OWNERS, THE REVOCATION IS NOT EFFECTIVE UNLESS EXECUTED BY THE LAST SURVIVING
42 OWNER.

43 E. IF AN OWNER EXECUTES AND RECORDS MORE THAN ONE BENEFICIARY DEED
44 CONCERNING THE SAME REAL PROPERTY, THE LAST BENEFICIARY DEED RECORDED IS THE
45 EFFECTIVE BENEFICIARY DEED.

1 F. THIS SECTION DOES NOT PROHIBIT OTHER METHODS OF CONVEYING PROPERTY
2 THAT ARE PERMITTED BY LAW AND THAT HAVE THE EFFECT OF POSTPONING ENJOYMENT
3 OF AN INTEREST IN REAL PROPERTY UNTIL THE DEATH OF THE OWNER. THIS SECTION
4 DOES NOT INVALIDATE ANY DEED OTHERWISE EFFECTIVE BY LAW TO CONVEY TITLE TO
5 THE INTERESTS AND ESTATES PROVIDED IN THE DEED THAT IS NOT RECORDED UNTIL
6 AFTER THE DEATH OF THE OWNER.

7 G. A BENEFICIARY DEED IS SUFFICIENT IF IT COMPLIES WITH OTHER
8 APPLICABLE LAWS AND IF IT IS IN SUBSTANTIALLY THE FOLLOWING FORM:

9 BENEFICIARY DEED

10 I (WE) HEREBY CONVEY TO _____ (GRANTEE)
11 EFFECTIVE ON MY (OUR) DEATH THE FOLLOWING DESCRIBED REAL
12 PROPERTY:

13 (LEGAL DESCRIPTION)

14
15
16
17 _____
(SIGNATURE OF GRANTOR(S))

18 (ACKNOWLEDGMENT).

19 H. THE INSTRUMENT OF REVOCATION SHALL BE SUFFICIENT IF IT COMPLIES
20 WITH OTHER APPLICABLE LAWS AND IS IN SUBSTANTIALLY THE FOLLOWING FORM:

21 REVOCATION OF BENEFICIARY DEED

22 THE UNDERSIGNED HEREBY REVOKES THE BENEFICIARY DEED
23 RECORDED ON _____ (DATE), IN DOCKET OR BOOK _____
24 AT PAGE _____, OR INSTRUMENT NUMBER _____, RECORDS OF
25 _____ COUNTY, ARIZONA.

26 DATED: _____

27
28 _____
SIGNATURE

29 (ACKNOWLEDGMENT).

30 I. FOR THE PURPOSES OF THIS SECTION, "BENEFICIARY DEED" MEANS A DEED
31 AUTHORIZED UNDER THIS SECTION.

32 Sec. 3. Section 42-15101, Arizona Revised Statutes, is amended to
33 read:

34 42-15101. Annual notice of full cash value

35 A. Except as provided by section 42-13254, on any date before March
36 1 of each year the county assessor shall notify each owner of record, or
37 purchaser under a deed of trust or an agreement of sale, of property that is
38 valued by the assessor as to the property's full cash value and the limited
39 property value, if applicable, to be used for assessment purposes.

40 B. The notice under this section shall be in writing and mailed to the
41 person's last known mailing address. WITH RESPECT TO ANY PROPERTY
42 TRANSFERRED BY A BENEFICIARY DEED PURSUANT TO SECTION 33-405, UNTIL THE
43 COUNTY ASSESSOR IS NOTIFIED BY THE BENEFICIARY AFTER THE DEATH OF THE OWNER
44 OF A CHANGE OF ADDRESS, MAILING OF THE NOTICE TO THE LAST KNOWN ADDRESS OF

1 THE DECEASED OWNER IS DEEMED A MAILING TO THE BENEFICIARY'S LAST KNOWN
2 MAILING ADDRESS AS REQUIRED BY THIS SECTION.

3 C. On the same date each year the assessor shall certify to the board
4 of supervisors and the department the date on which all notices under this
5 section were mailed.

6 D. The director may extend the final date for mailing notices beyond
7 March 1 for a period of not more than thirty days for delays caused by an act
8 of God, flood or fire. If the director extends the mailing date, the
9 extension applies to all property valued by the assessor.

10 E. After the mailing date of the notice any person who owns, claims,
11 possesses or controls property that is valued by the assessor may inquire of
12 and be advised by the assessor as to the valuation of the property determined
13 by the assessor, but the assessor shall not change the roll except as
14 provided by chapter 16, article 2 of this title or as otherwise provided by
15 law.


APPROVED BY THE GOVERNOR APRIL 11, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2001.

Passed the House February 6, 2001,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting



Speaker of the House



Chief Clerk of the House

Passed the Senate April 2, 2001,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting


President of the Senate


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.


Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

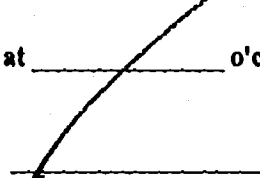
Governor of Arizona

H.B. 2280

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this day of , 20 ,

at o'clock M.


Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 5, 2001,

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

Jake Flake
Speaker of the House
Pro Tempore
Norman L. Syron
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6 day of April, 2001,

at 9:32 o'clock A M.

Sandra Starnig
Secretary to the Governor

Approved this 11 day of

April, 2001,

at 8:28 o'clock P M.

Jane Dee Hull
Governor of Arizona

H.B. 2280

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 12 day of April, 2001,

at 3:36 o'clock P M.

Glenn Gayless
Secretary of State